

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

December 13, 1999

NEWENERGY EAST, L.L.C.  
Application for License to Operate as a  
Competitive Electricity Provider

Docket No. 1999-809

ORDER GRANTING LICENSE

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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## **I. SUMMARY**

In this Order, we license NewEnergy East, L.L.C. to operate as a competitive electricity provider in Maine pursuant to Chapter 305 of the Commission's Rules.

## **II. APPLICATION**

On November 12, 1999, NewEnergy East, L.L.C. (NewEnergy East) applied to the Commission for a license to operate in Maine as a competitive electricity provider, as provided in Chapter 305. On December 6 and December 7, 1999, NewEnergy East provided additional information to supplement its earlier filing. The Administrative Director determined that NewEnergy East's application was complete and sufficient to meet the filing requirements of Chapter 305 on November 12, 1999.

### **A. Type of Service Proposed**

NewEnergy East proposes to sell electric service to the public at retail as a competitive electricity provider. NewEnergy East's application states that the proposed licensee plans to market "electricity, natural gas, energy services, energy management, information services, energy efficiency upgrades" and other products and services to all customer classes throughout all areas of Maine.

### **B. Fee Paid**

With its application, NewEnergy East paid a \$100 fee to the Commission, as required by section 2(C)(5) of Chapter 305.

### III. FINANCIAL ISSUES

#### A. Security

NewEnergy East will operate as a competitive electric provider offering retail service only to customers with a demand greater than 100 kilowatts in Maine. Pursuant to section 2(B)(1)(a)(i) of Chapter 305, NewEnergy East does not have to furnish a security instrument to the Commission.

#### B. Showing of Professional and Financial Capability

NewEnergy East will operate as a competitive electric provider offering retail service only to customers with a demand greater than 100 kilowatts in Maine. NewEnergy East provided information to demonstrate its financial capability to engage in its proposed business as required by section 2(B)(1)(a)(ii) of Chapter 305. We have reviewed that information and find that it complies with the requirements of Chapter 305.

### IV. TECHNICAL ISSUES

#### A. Showing of Technical Capability

NewEnergy East, as a competitive electricity provider in Maine, must demonstrate it has the technical ability to enter necessary interconnection arrangements or contracts with Maine utilities, pursuant to section 2(B)(2)(a) of Chapter 305. In its application, NewEnergy East provided information demonstrating its ability to enter into such arrangements or contracts, although it stated it had not yet reached such agreements. Accordingly, NewEnergy East shall not act to enroll customers or provide generation service until all required contracts have been executed consistent with Commission rules. NewEnergy East shall notify the Commission when all such contracts have been executed.

Section 2(B)(2)(b) of Chapter 305 requires an applicant to demonstrate that it has the technical ability to secure generation or otherwise obtain and deliver electricity meeting all applicable requirements for the bulk power system control area in which the applicant would provide service. NewEnergy East filed supporting information to demonstrate its technical capability to meet that requirement within the NEPOOL/ISO-NE portion of the Northeast Power Coordinating Council control area. We have reviewed that information and find that it complies with the requirements of Chapter 305. NewEnergy East also documented that it will meet the NEPOOL transaction provisions required by section 2(B)(2)(b)(ii) of Chapter 305.

B. Resource Portfolio

NewEnergy East, as a competitive electricity provider in Maine, pursuant to section 2(B)(4) of Chapter 305, must demonstrate its ability to meet the resource portfolio requirement of 35-A M.R.S.A. § 3210 and the portfolio requirement reporting rules in Chapter 311 of the Commission's rules. NewEnergy East filed information to demonstrate its ability to meet these requirements. We have reviewed that information and find that it complies with the requirements of Chapter 305.

**V. CONSUMER PROTECTION ISSUES**

A. Showing of Fitness

In its application, NewEnergy East provided information required by Chapter 305 section 2(B)(3) related to enforcement proceedings and customer complaints. We have reviewed that information and find that it meets the requirements of Chapter 305.

B. Ability to Comply with Consumer Protection Rules

NewEnergy East will operate as a competitive electric provider offering retail service only to retail customers with a demand greater than 100 kilowatts in Maine. Pursuant to section 2(B)(6) of Chapter 305, NewEnergy East is not required to demonstrate its ability to comply with applicable consumer protection requirements.

C. Do-Not-Call List

Chapter 305 section 4(l) states that "[t]he Commission will maintain or cause to be maintained a 'Do-Not-Call' list of customers who have requested -- orally, in writing, or by commercially accepted electronic means -- that they not receive telemarketing calls from competitive electricity providers." We require that licensees use do-not-call list mechanisms already in place nationally to satisfy that requirement. To the extent that it telemarkets to Maine consumers, NewEnergy East shall comply with the following requirements.

NewEnergy East must comply with the requirements of the Telephone Consumer Protection Act,<sup>1</sup> the Telemarketing and Consumer Fraud and Abuse Prevention Act,<sup>2</sup> and related rules of the Federal Communications Commission<sup>3</sup> and Federal Trade

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<sup>1</sup>47 U.S.C. § 227

<sup>2</sup>15 U.S.C. §§ 6101-6108

<sup>3</sup>47 CFR 64.1200

Commission.<sup>4</sup> NewEnergy East must comply with those requirements and must maintain its own do-not-call list as required by those laws and rules, for all intrastate and interstate telemarketing of Maine consumers, including both residential and business customers. NewEnergy East shall not telemarket to Maine customers on that list, as required in Chapter 305 section 4(l)(1). NewEnergy East shall update its do-not-call list at least monthly, and maintain copies of that list for at least six months. NewEnergy East shall provide a copy of that list to the Commission upon request.

Further, each month, NewEnergy East must obtain listings of Maine consumers who have arranged to be included on the do-not-call list maintained by the Telephone Preference Service of the Direct Marketing Association, Inc.<sup>5</sup> NewEnergy East shall not telemarket to Maine customers on that list, as required in Chapter 305 section 4(l)(1).

## **VI. ADDITIONAL PROVISIONS**

NewEnergy East must comply with all applicable requirements and limitations in Chapter 305 not explicitly waived in this Order. NewEnergy East must also comply with all requirements and limitations in other applicable Commission rules, including any applicable future changes in Maine laws and Commission rules, and in other parts of this Order.

## **VII. ORDERING PARAGRAPHS**

Accordingly, we

1. license NewEnergy East, L.L.C. to operate as a competitive electricity provider in Maine, pursuant to Chapter 305 of the Commission's Rules, to offer retail service only to customers with a demand greater than 100 kilowatts in Maine;
2. order NewEnergy East, L.L.C. to comply with all Do-Not-Call List requirements contained in Part V(C) of this Order to the extent that it telemarkets to Maine consumers; and

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<sup>4</sup>FTC Telemarketing Sales Rule, 16 CFR Part 310

<sup>5</sup>Telephone Preference Service, Direct Marketing Association, Inc., P.O. Box 9014, Farmingdale, NY 11735-9014

3. order that this license is effective on the date of this Order and valid until revoked by the Commission pursuant to section 3(A)(4) of Chapter 305, or abandoned by the licensee pursuant to sections 2(C)(9) and 2(C)(11) of Chapter 305 of the Commission's Rules.

Dated at Augusta, Maine, this 13th day of December, 1999.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl

Administrative Director

COMMISSIONERS VOTING FOR: Nugent  
Diamond

COMMISSIONERS ABSENT: Welch

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R. 110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission to the Maine Supreme Judicial Court, sitting as the Law Court, is not available, as provided in 47 U.S.C. § 252(e)(6).
3. Review of this discussion is available to an aggrieved party by bringing an action in federal district court, as provided in 47 U.S.C. § 252(e)(6).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.